

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

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In the Matter of :
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Karnak Corporation : **CONSENT AGREEMENT**
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Respondent. : **AND**
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Proceeding under Section 325(c) of Title III : **FINAL ORDER**
of the Superfund Amendments and Reauthorization Act.: **DOCKET NUMBER**
----- X **EPCRA-02-2026-4101**

PRELIMINARY STATEMENT

1. This administrative proceeding for the assessment of a civil penalty is being initiated pursuant to Section 325(c) of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 11001 et seq. [also known as the Emergency Planning and Community Right-to-Know Act of 1986 (hereinafter, "EPCRA")].
2. Section 325(c) of EPCRA, 42 U.S.C. § 11045, authorizes the Administrator of EPA to enforce against persons who violate EPCRA and its implementing regulations. That provision provides, in relevant part, that "[a]ny person who violates any requirement of section 11023 of this title shall be liable to the United States for a civil penalty."
3. The Acting Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency, Region 2 (hereinafter "the EPA" or "Complainant") alleges that Karnak Corporation (hereinafter "Respondent") at 330 Central Avenue, Clark, NJ 07066 (hereinafter, "Respondent's facility" or "the facility") violated the requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated pursuant to that section, codified at 40 C.F.R. Part 372.
4. Pursuant to 40 C.F.R. § 22.13(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, where parties agree to a settlement of one or more causes of action prior to the filing of an administrative complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order ("CAFO") pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3).

5. The EPA and Respondent agree that settling this matter by entering into this Consent Agreement, pursuant to 40 C.F.R. § 22.13(b) and 40 C.F.R. § 22.18(b)(2) and (3), is an appropriate means of resolving this case without further litigation. This CAFO is being issued pursuant to said provisions of 40 C.F.R. Part 22. No formal or adjudicated findings of fact or conclusions of law have been made. The following constitutes Complainant's findings of fact and conclusions of law based upon information the EPA obtained as the result of EPA's February 7, 2024 inspection and other communications with the facility.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

6. Respondent is Karnak Corporation.

7. Respondent was at all relevant times, and continues to be, a corporation existing under New Jersey law.

8. At all times relevant hereto, Respondent has owned and operated a facility for the manufacture of asphalt shingle and coating materials items located at 330 Central Avenue, Clark, NJ 07066 (TRI Facility ID: 07066KRNKC330CE) which is the subject of this CAFO.

9. Under Section 313 of EPCRA and 40 C.F.R. § 372.22, owners or operators of a facility subject to the requirements of Section 313(b) are required to submit annually, no later than July 1 of each year, a complete and correct Toxic Chemical Release Inventory Reporting Form R report, EPA Form 9350-1 ("TRI Form R report") for each toxic chemical listed under 40 C.F.R. § 372.65 and/or 40 C.F.R. § 372.28 that was manufactured, processed, or otherwise used during the preceding calendar year in quantities exceeding the established toxic chemical thresholds. Each required TRI Form R report must be submitted to the EPA and to the State or Territory in which the subject facility is located. As an alternative to the requirements set forth above, pursuant to Section 313(f)(2) of EPCRA, 42 U.S.C. § 11023(f)(2), and 40 C.F.R. § 372.27, owners or operators of a facility subject to the requirements of Section 313(b) with respect to the "manufacture, process or otherwise use" of a toxic chemical may apply an alternate threshold of one million (1,000,000) pounds per year to that chemical if the conditions set forth in 40 C.F.R. § 372.27(a) are met. If the aforementioned alternate threshold for a specific toxic chemical is applicable, such owners or operators, in lieu of filing a TRI Form R report, may submit an "Alternate Threshold Certification Statement" ("TRI Form A report") pursuant to 40 C.F.R. § 372.27(b). Pursuant to 40 C.F.R. § 372.27(e), the EPA has excluded the Persistent Bioaccumulative Toxic Chemicals listed in 40 C.F.R. § 372.28 from eligibility for the Alternate Thresholds described in 40 C.F.R. § 372.27(a). [59 Fed. Reg. 61502, Nov. 30, 1994, as amended at 64 Fed. Reg. 58750, Oct. 29, 1999; as amended at 71 Fed. Reg. 76944, Dec. 22, 2006; as amended at 74 Fed. Reg. 19005, Apr. 27, 2009].

10. Respondent is a "person" within the meaning of Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

11. Respondent is an owner of a “facility” as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and by 40 C.F.R. § 372.3.

12. Respondent is an operator of a “facility” as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and by 40 C.F.R. § 372.3.

13. Respondent’s facility has ten (10) or more “full time employees” as that term is defined by 40 C.F.R. § 372.3.

14. Respondent’s facility is in North American Industry Classification System (“NAICS”) code 324122 - Asphalt Shingle and Coating Materials Manufacturing.

15. Respondent is subject to the requirements of Section 313(b) of EPCRA, 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.22.

16. Xylene (mixed isomers) and 1,2,4-Trimethylbenzene each is a listed chemical under 40 C.F.R. § 372.65.

17. At its facility, Respondent manufactured, processed, or otherwise used, in amounts exceeding the reporting thresholds, 1,2,4-Trimethylbenzene in calendar years 2020, 2021, and 2022 and Xylene (mixed isomers) in calendar year 2021.

18. No exceptions to the TRI reporting requirements apply to Respondent’s manufacture, process, or otherwise use of 1,2,4-Trimethylbenzene in calendar years 2020, 2021, and 2022 and Xylene (mixed isomers) in calendar year 2021

19. Respondent was required to submit a timely, complete, and correct TRI Form A or Form R report for each of the above listed chemicals for the corresponding calendar years on or before July 1 of the following calendar year, to the Administrator of the EPA and to the State of New Jersey and failed to do so in a timely manner.

20. Each of Respondent's failures to timely submit a correct TRI Form A or Form R report for the above listed chemicals to the EPA as required constitutes a failure to comply with Section 313 of EPCRA, 42 U.S.C. § 11023, and with 40 C.F.R. Part 372, for which a penalty may be separately assessed.

21. Pursuant to Section 325(c) of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 11001 et seq. [also known as the Emergency Planning and Community Right-to-Know Act of 1986 (hereinafter, "EPCRA")], Complainant has determined that the Assessed Penalty is an appropriate amount to settle this action. In determining the penalty amount and payment schedule, Complainant has considered the appropriateness of the penalty to the size of Respondent’s business, the effect on Respondent’s ability to continue in

business, the gravity of the violations, and, further, in accord with the guidance of EPA's Enforcement Response Policy for the Emergency Planning and Community Right-to-Know Act of 1986, the Section 313 Enforcement Response Policy "(EPCRA ERP)" and the Civil Monetary Penalty Inflation Adjustment Rules, Respondent's good faith and timely efforts to address and mitigate the allegations.

CONSENT AGREEMENT

22. Based on the foregoing, and pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045, and 40 C.F.R. § 22.18, Respondent, for the purposes of this Consent Agreement and in the interest of settling this matter, knowingly and voluntarily agrees that by signing this Consent Agreement, it:

- a. Admits that EPA Region 2 has jurisdiction under EPCRA to enforce the provisions of the Act and the regulations promulgated thereunder;
- b. Neither admits nor denies the specific factual allegations and assertions set forth in the "Findings of Fact and Conclusions of Law" section;
- c. Consents to the assessment of the civil penalty as set forth below and agrees to pay the penalty in accordance with the terms of this Consent Agreement;
- d. Waives any right it may have to contest the allegations set forth herein or the terms of this Consent Agreement; and
- e. Consents to the issuance of the Final Order incorporating all provisions of this Consent Agreement and waives its rights to appeal the Final Order accompanying this Consent Agreement.

Certifications and Acknowledgements

23. Respondent understands that it is obligated to maintain compliance with applicable requirements of EPCRA, agrees to comply with all EPCRA and its promulgated regulations, and certifies that it is in full compliance with the provisions and statutory requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations set forth at 40 C.F.R. Part 372.

Penalty

24. Respondent agrees to pay a civil penalty in the amount of **ONE HUNDRED TWENTY-SEVEN THOUSAND TWO HUNDRED DOLLARS (\$127,200)** ("Assessed Penalty") on or before thirty (30) calendar days from the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk (the "Filing Date").

25. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

26. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, EPCRA-02-2026-4101; and,
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s).

James Crossmon
EPCRA 313 Enforcement Officer, Region 2
crossmon.james@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Division
CINWD_AcctsReceivable@epa.gov

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

27. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States, the rate of interest is set at the IRS standard underpayment rate, as established by the Secretary of the Treasury, in accordance with 31 U.S.C. § 3717(a)(1), 31 C.F.R. § 901.9(b)(2), and 40 C.F.R. § 13.11(a); any lower rate would fail to provide Respondent adequate incentive for timely payment.

- b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period following the Filing Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.
- c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amount will accrue from the Filing Date.

28. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (*i.e.*, the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
- c. Suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.

29. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

30. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

31. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines,

Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements), that requires a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (*i.e.*, a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Division at wise.milton@epa.gov within 30 days of the Filing Date, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days of the Filing Date, then Respondent shall provide EPA’s Cincinnati Finance Division with Respondent’s TIN, via email, within five (5) days of Respondent’s receipt of the TIN.
- e. Respondent’s failure to comply with providing IRS Form W-9 or TIN to EPA, as described above, may subject Respondent to a penalty under 26 U.S.C. Section 6723, 26 U.S.C. Section 6724(d)(3) and 26 C.F.R. Section 301.6723-1.

32. Full payment of the assessed penalty shall only resolve Respondent’s liability for federal civil penalties for the alleged violations described in paragraphs 17-20 above. Full payment of this penalty shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions or violations of law.

General Provisions

33. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to its issuance and its terms. Respondent agrees that all the terms of the settlement are set forth herein.

34. Nothing in this document is intended or construed to waive, prejudice, or otherwise affect the right of EPA, or the United States, from pursuing any appropriate remedy, sanction or penalty prescribed by law against Respondent, if Respondent has made any material misrepresentations or has provided materially false information in any document submitted during this proceeding.

35. This CAFO is not intended, and shall not be construed, to waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local laws or regulations, nor shall it be construed to be a ruling on or determination of any issue related to any federal, state, or local permit. The CAFO does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of EPCRA and the regulations promulgated thereunder.

36. By signing this Consent Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying this Consent Agreement.

37. Respondent agrees not to contest the validity or any term of this CA/FO in any action brought: a) by the United States, including EPA, to enforce or seek compliance with this CA/FO; or b) to enforce a judgment relating to this CA/FO.

38. The provisions of this Consent Agreement and final Order shall be binding upon both EPA and the Respondent, its officers, agents, authorized representatives, and successors or assigns.

39. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into this Consent Agreement and all the terms and conditions set forth in this Consent Agreement

40. Respondent consents to the use of electronic signatures in this matter and to service upon it of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk via email to the following designated representative:

Sarah Jane Jelin
President, General Counsel
Karnak Corporation
330 Central Avenue
Clark, NJ 07066
sjjelin@karnakcorp.com

Receipt of the fully executed CAFO by the designated representative shall constitute Respondent's receipt and acceptance of the CAFO. Except as the parties may otherwise agree in

writing, EPA shall send any future written communications related to this matter (including any correspondence related to payment of the penalty) by email to this designated representative.

41. Each party hereto agrees to bear its own costs and attorney's fees in this matter.

42. Pursuant to 40 C.F.R. § 22.31(b), the executed Consent Agreement and accompanying Final Order shall become effective and binding when filed with the EPA, Region 2 Regional Hearing Clerk (such date henceforth referred to as the "effective date").

For Respondent, Karnak Corporation:

Signature

Date

Print Name

Title

For Complainant, the U.S. Environmental Protection Agency:

Douglas McKenna, Acting Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 2

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, concurs in the foregoing Consent Agreement in the case of **In the Matter of Karnak Corporation, Docket Number EPCRA-02-2026-4101**. Said Consent Agreement, having been duly accepted and entered into by the parties, is hereby ratified, incorporated into, and issued as this Final Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk of EPA Region 2 (40 C.F.R. § 22.31(b)). This Final Order is being entered pursuant to the authority of 40 C.F.R. § 22.18(b)(3).

Dana P. Friedman
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, New York 10007-1866